

# ASSEMBLY, No. 3969

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 17, 2018

**Sponsored by:**

**Assemblyman EDWARD H. THOMSON  
District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblymen Space and Harold J. Wirths**

**SYNOPSIS**

Prohibits exemption of school purposes property taxes under “Long Term Tax Exemption Law”.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/22/2018)**

1 AN ACT concerning financial agreements for certain property tax  
2 exemptions and amending P.L.1991, c.431.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 9 of P.L.1991, c.431 (C.40A:20-9) is amended to  
8 read as follows:

9 9. Every approved project shall be evidenced by a financial  
10 agreement between the municipality and the urban renewal entity.  
11 The agreement shall be prepared by the entity and submitted as a  
12 separate part of its application for project approval. The agreement  
13 shall not take effect until approved by ordinance of the  
14 municipality. Any amendments or modifications of the agreement  
15 made thereafter shall be by mutual consent of the municipality and  
16 the urban renewal entity, and shall be subject to approval by  
17 ordinance of the municipal governing body upon recommendation  
18 of the mayor or other chief executive officer of the municipality  
19 prior to taking effect.

20 The financial agreement shall be in the form of a contract  
21 requiring full performance within 30 years from the date of  
22 completion of the project, and shall include the following:

23 a. That the profits of or dividends payable by the urban  
24 renewal entity shall be limited according to terms appropriate for  
25 the type of entity in conformance with the provisions of P.L.1991,  
26 c.431 (C.40A:20-1 et seq.).

27 b. That **[all]** improvements and land, to the extent authorized  
28 pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12), in the  
29 project to be constructed or acquired by the urban renewal entity  
30 shall be exempt from taxation **[as provided]** to the extent  
31 authorized in section 12 of P.L.1991, c.431 **[(C.40A:20-1 et seq.)]**  
32 (C.40A:20-12).

33 c. That the urban renewal entity shall make payments for  
34 municipal services as provided in P.L.1991, c.431 (C.40A:20-1 et  
35 seq.).

36 d. That the urban renewal entity shall submit annually, within  
37 90 days after the close of its fiscal year, its auditor's reports to the  
38 mayor and governing body of the municipality.

39 e. That the urban renewal entity shall, upon request, permit  
40 inspection of property, equipment, buildings and other facilities of  
41 the entity, and also permit examination and audit of its books,  
42 contracts, records, documents and papers by authorized  
43 representatives of the municipality or the State.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 f. That in the event of any dispute between the parties matters  
2 in controversy shall be resolved by arbitration in the manner  
3 provided in the financial agreement.

4 g. That operation under the financial agreement shall be  
5 terminable by the urban renewal entity in the manner provided by  
6 P.L.1991, c.431 (C.40A:20-1 et seq.).

7 h. That the urban renewal entity shall at all times prior to the  
8 expiration or other termination of the financial agreement remain  
9 bound by the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

10 The financial agreement shall contain detailed representations  
11 and covenants by the urban renewal entity as to the manner in  
12 which it proposes to use, manage or operate the project. The  
13 financial agreement shall further set forth the method for computing  
14 gross revenue for the urban renewal entity, the method of  
15 determining insurance, operating and maintenance expenses paid by  
16 a tenant which are ordinarily paid by a landlord, the plans for  
17 financing the project, including the estimated total project cost, the  
18 amortization rate on the total project cost, the source of funds, the  
19 interest rates to be paid on the construction financing, the source  
20 and amount of paid-in capital, the terms of mortgage amortization  
21 or payment of principal on any mortgage, a good faith projection of  
22 initial sales prices of any condominium units and expenses to be  
23 incurred in promoting and consummating such sales, and the rental  
24 schedules and lease terms to be used in the project. Any financial  
25 agreement may allow the municipality to levy an annual  
26 administrative fee, not to exceed two percent of the annual service  
27 charge.

28 (cf: P.L.2015, c.95, s.28)

29

30 2. Section 11 of P.L.1991, c.431 (C.40A:20-11) is amended to  
31 read as follows:

32 11. A financial agreement approved pursuant to this act shall  
33 include findings by the municipality, approved by the municipal  
34 governing body, setting forth appropriate tax exemption provisions  
35 and an appropriate annual service charge schedule which shall be  
36 based upon the provisions of section 12 of **[this act]** P.L.1991,  
37 c.431 (C.40A:20-12) and the municipality's determinations as to:

38 a. The relative benefits of the project to the redevelopment of  
39 the redevelopment area when compared to the costs, if any,  
40 associated with the tax exemption;

41 b. An assessment of the importance of the tax exemption to be  
42 granted in obtaining the development of the project and in  
43 influencing the locational decisions of probable occupants of the  
44 project or units of the project.

45 (cf: P.L.1991, c.431, s.11)

46

47 3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to  
48 read as follows:

1       12. The rehabilitation or improvements made in the development  
2 or redevelopment of a redevelopment area or area appurtenant  
3 thereto or for a redevelopment relocation housing project, pursuant  
4 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from  
5 taxation for a limited period as hereinafter provided. However,  
6 with respect to any project for which a long term tax exemption is  
7 sought by an urban renewal entity after the effective date of  
8 P.L. , c. (C. ) (pending before the Legislature as  
9 this bill), the rehabilitation or improvements shall not be exempt  
10 from property taxes for school purposes.

11       When housing is to be constructed, acquired or rehabilitated by  
12 an urban renewal entity, the land upon which that housing is  
13 situated shall be exempt from taxation, except for property taxes for  
14 school purposes, as set forth in this section for a limited period as  
15 hereinafter provided. The exemption shall be allowed when the  
16 clerk of the municipality wherein the property is situated shall  
17 certify to the municipal tax assessor that a financial agreement with  
18 an urban renewal entity for the development or the redevelopment  
19 of the property, or the provision of a redevelopment relocation  
20 housing project, or the provision of a low and moderate income  
21 housing project has been entered into and is in effect as required by  
22 P.L.1991, c.431 (C.40A:20-1 et seq.).

23       Delivery by the municipal clerk to the municipal tax assessor of  
24 a certified copy of the ordinance of the governing body approving  
25 the tax exemption and financial agreement with the urban renewal  
26 entity shall constitute the required certification. For each  
27 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et  
28 al.), upon certification as required hereunder, the tax assessor shall  
29 implement the exemption and continue to enforce that exemption  
30 without further certification by the clerk until the expiration of the  
31 entitlement to exemption by the terms of the financial agreement or  
32 until the tax assessor has been duly notified by the clerk that the  
33 exemption has been terminated.

34       Within 10 calendar days following the later of the effective date  
35 of an ordinance following its final adoption by the governing body  
36 approving the tax exemption or the execution of the financial  
37 agreement by the urban renewal entity, the municipal clerk shall  
38 transmit a certified copy of the ordinance and financial agreement  
39 to the chief financial officer of the county and to the county counsel  
40 for informational purposes.

41       Whenever an exemption status changes during a tax year, the  
42 procedure for the apportionment of the taxes for the year shall be  
43 the same as in the case of other changes in tax exemption status  
44 during the tax year. Tax exemptions granted pursuant to P.L.2003,  
45 c.125 (C.40A:12A-4.1 et al.) represent long term financial  
46 agreements between the municipality and the urban renewal entity  
47 and as such constitute a single continuing exemption from local  
48 property taxation to the extent permitted in this section for the

1 duration of the financial agreement. The validity of a financial  
2 agreement or any exemption granted pursuant thereto may be  
3 challenged only by filing an action in lieu of prerogative writ within  
4 20 days from the publication of a notice of the adoption of an  
5 ordinance by the governing body granting the exemption and  
6 approving the financial agreement. Such notice shall be published  
7 in a newspaper of general circulation in the municipality and in a  
8 newspaper of general circulation in the county if different from the  
9 municipal newspaper.

10 a. The duration of the exemption for urban renewal entities  
11 shall be as follows: for all projects, a term of not more than 30 years  
12 from the completion of the entire project, or unit of the project if  
13 the project is undertaken in units, or not more than 35 years from  
14 the execution of the financial agreement between the municipality  
15 and the urban renewal entity.

16 b. During the term of any exemption, in lieu of **[any]** taxes,  
17 other than school purposes property taxes, to be paid on the  
18 buildings and improvements of the project and, to the extent  
19 authorized pursuant to this section, on the land, the urban renewal  
20 entity shall make payment to the municipality of an annual service  
21 charge, which shall remit a portion of that revenue to the county as  
22 provided hereinafter. In addition, the municipality may assess an  
23 administrative fee, not to exceed two percent of the annual service  
24 charge, for the processing of the application. The annual service  
25 charge for municipal services supplied to the project to be paid by  
26 the urban renewal entity for any period of exemption, shall be  
27 determined as follows:

28 (1) An annual amount equal to a percentage determined  
29 pursuant to this subsection and section 11 of P.L.1991, c.431  
30 (C.40A:20-11), of the annual gross revenue from each unit of the  
31 project, if the project is undertaken in units, or from the total  
32 project, if the project is not undertaken in units. The percentage of  
33 the annual gross revenue shall not be more than 15% in the case of  
34 a low and moderate income housing project, nor less than 10% in  
35 the case of all other projects.

36 At the option of the municipality, or where because of the nature  
37 of the development, ownership, use or occupancy of the project or  
38 any unit thereof, if the project is to be undertaken in units, the total  
39 annual gross rental or gross shelter rent or annual gross revenue  
40 cannot be reasonably ascertained, the governing body shall provide  
41 in the financial agreement that the annual service charge shall be a  
42 sum equal to a percentage determined pursuant to this subsection  
43 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total  
44 project cost or total project unit cost determined pursuant to  
45 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day  
46 of the month following the substantial completion of the project or  
47 any unit thereof, if the project is undertaken in units. The  
48 percentage of the total project cost or total project unit cost shall not

1 be more than 2% in the case of a low and moderate income housing  
2 project, and shall not be less than 2% in the case of all other  
3 projects.

4 (2) In either case, the financial agreement shall establish a  
5 schedule of annual service charges to be paid over the term of the  
6 exemption period, which shall be in stages as follows:

7 (a) For the first stage of the exemption period, which shall  
8 commence with the date of completion of the unit or of the project,  
9 as the case may be, and continue for a time of not less than six years  
10 nor more than 15 years, as specified in the financial agreement, the  
11 urban renewal entity shall pay the municipality an annual service  
12 charge for municipal services supplied to the project in an annual  
13 amount equal to the amount determined pursuant to paragraph (1) of  
14 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).  
15 For the remainder of the period of the exemption, if any, the annual  
16 service charge shall be determined as follows:

17 (b) For the second stage of the exemption period, which shall  
18 not be less than one year nor more than six years, as specified in the  
19 financial agreement, an amount equal to either the amount  
20 determined pursuant to paragraph (1) of this subsection and section  
21 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of  
22 taxes otherwise due on the value of the land and improvements,  
23 whichever shall be greater;

24 (c) For the third stage of the exemption period, which shall not  
25 be less than one year nor more than six years, as specified in the  
26 financial agreement, an amount equal to either the amount  
27 determined pursuant to paragraph (1) of this subsection and section  
28 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of  
29 taxes otherwise due on the value of the land and improvements,  
30 whichever shall be greater;

31 (d) For the fourth stage of the exemption period, which shall not  
32 be less than one year nor more than six years, as specified in the  
33 financial agreement, an amount equal to either the amount  
34 determined pursuant to paragraph (1) of this subsection and section  
35 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of  
36 taxes otherwise due on the value of the land and improvements,  
37 whichever shall be greater; and

38 (e) For the final stage of the exemption period, the duration of  
39 which shall not be less than one year and shall be specified in the  
40 financial agreement, an amount equal to either the amount  
41 determined pursuant to paragraph (1) of this subsection and section  
42 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of  
43 taxes otherwise due on the value of the land and improvements,  
44 whichever shall be greater.

45 If the financial agreement provides for an exemption period of  
46 less than 30 years from the completion of the entire project, or less  
47 than 35 years from the execution of the financial agreement, the  
48 financial agreement shall set forth a schedule of annual service

1 charges for the exemption period which shall be based upon the  
2 minimum service charges and staged adjustments set forth in this  
3 section.

4 The annual service charge shall be paid to the municipality on a  
5 quarterly basis in a manner consistent with the municipality's tax  
6 collection schedule.

7 Each municipality which enters into a financial agreement on or  
8 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)  
9 shall remit 5 percent of the annual service charge collected by the  
10 municipality to the county in accordance with the provisions of  
11 R.S.54:4-74.

12 Against the annual service charge the urban renewal entity shall  
13 be entitled to credit for the amount, without interest, of the real  
14 estate taxes on land paid by it in the last four preceding quarterly  
15 installments.

16 Notwithstanding the provisions of this section or of the financial  
17 agreement, the minimum annual service charge shall be the amount  
18 of the total taxes levied against all real property in the area covered  
19 by the project in the last full tax year in which the area was subject  
20 to taxation, and the minimum annual service charge shall be paid in  
21 each year in which the annual service charge calculated pursuant to  
22 this section or the financial agreement would be less than the  
23 minimum annual service charge.

24 c. All exemptions granted pursuant to the provisions of  
25 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time  
26 prescribed in the financial agreement.

27 Upon the termination of the exemption granted pursuant to the  
28 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all  
29 affected parcels, land and all improvements made thereto shall be  
30 assessed and subject to taxation as are other taxable properties in  
31 the municipality. After the date of termination, all restrictions and  
32 limitations upon the urban renewal entity shall terminate and be at  
33 an end upon the entity's rendering its final accounting to and with  
34 the municipality.

35 (cf: P.L.2015, c.247, s.1)

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37 4. This act shall take effect immediately and shall apply to  
38 every financial agreement entered into after the effective date of  
39 this act.

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STATEMENT

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44 This bill would amend the "Long Term Tax Exemption Law,"  
45 P.L.1991, c.431 (C.40A:20-1 et seq.) to prohibit the exemption of  
46 property taxes for school purposes for any project for which a long  
47 term tax exemption is sought by an urban renewal entity after the  
48 effective date of the bill.

1       The exemption of property taxes for school purposes on real  
2 property subject to a long term property tax exemption under the  
3 “Long Term Tax Exemption Law” requires that the property tax  
4 levy for school purposes be allocated among all property taxpayers  
5 whose property is not subject to such a property tax exemption,  
6 thereby increasing their property tax burden. The purpose of this  
7 bill is to prevent these circumstances from occurring as the result of  
8 property tax exemptions granted after the effective date of the bill.